

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

LESLIE C. ROBINS and) CASE NO.
COLLEEN T. DeVRIES-CALIENDO,)
Plaintiffs,)
vs.)
SETTLEMENT FUNDING, LLC, PSF)
HOLDINGS, LLC, PSF TRUST 2000-2, and)
PEACHTREE FINANCIAL SOLUTIONS,)
LLC,)
Defendants.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§1332, 1441 and 1446, Defendants SETTLEMENT FUNDING, LLC, PSF HOLDINGS, LLC, PSF TRUST 2000-2, and PEACHTREE FINANCIAL SOLUTIONS, LLC (collectively, "Peachtree"), file this Notice of Removal and thereby remove to this United States District Court an action which is pending in the Circuit Court of Fond du Lac County, State of Wisconsin, Case No. 09-CV-519. Removal is appropriate because complete diversity of citizenship exists and the amount in controversy is in excess of \$75,000.00, exclusive of interest, attorneys' fees, and costs. The facts and legal authority supporting this Notice for Removal are as follows:

BACKGROUND FACTS

1. On or about May 29, 2009, Plaintiffs Leslie C. Robins and Colleen T. DeVries-Caliendo filed in the Circuit Court of Fond du Lac County, State of Wisconsin, the action styled: *Leslie C. Robins and Colleen T. DeVries-Caliendo v. Settlement Funding, LLC, PSF Holdings, LLC, PSF Trust 2000-2 and Peachtree Financial Solution, LLC*, Case No. 09-CV-519.

CONDITIONS OF REMOVAL

2. On May 29, 2009, counsel for each of the Defendants received by electronic mail from Plaintiffs' counsel a copy of the initial pleading setting forth the claim for relief upon which this action is based.

3. This Notice of Removal has been filed less than thirty (30) days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which this action is based.

4. A true and correct copy of all pleadings and process received by Defendants as of this date is attached hereto as Composite Exhibit "A". However, these papers were only received by Defendants' counsel through an e-mail sent by Plaintiffs' counsel, and therefore service of process has not yet been effectuated upon any of the Defendants.

5. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this notice of removal is being filed with the Circuit Court of Fond du Lac County, State of Wisconsin, and provided to other parties as required by law.

FACTS ESTABLISHING SUBJECT MATTER JURISDICTION

Diversity of Citizenship

6. Plaintiffs allege that Plaintiff Leslie C. Robins "is an adult resident of the State of Wisconsin" (Complaint, ¶1), and also that Plaintiff Colleen T. Devries-Caliendo "is an adult resident of the State of Wisconsin" (Complaint, ¶2). Accordingly, both Plaintiffs are citizens of the State of Wisconsin.

7. Defendant Settlement Funding, LLC is a Georgia limited liability company whose sole member is a Delaware limited liability company. The sole member of that Delaware limited

liability company is a citizen of Florida. None of the members of Settlement Funding LLC is a citizen of Wisconsin.

8. Defendant PSF Holdings, LLC is a Georgia limited liability company whose sole member is a Delaware limited liability company. The sole member of that Delaware limited liability company is a citizen of Florida. None of the members of PSF Holdings LLC is a citizen of Wisconsin.

9. Defendant PSF Trust 2000-2 is a Delaware business trust whose current trustees are citizens of Georgia, Delaware and Florida, respectively. None of the current trustees of PSF Trust 2000-2 is a citizen of Wisconsin.

10. Defendant Peachtree Financial Solutions, LLC is a Georgia limited liability company whose sole member is a Delaware limited liability company. The sole member of that Delaware limited liability company is a citizen of Florida. None of the members of Peachtree Financial Solutions, LLC is a citizen of Wisconsin.

11. “For diversity of citizenship purposes, a limited liability company has the citizenship of each of its members . . . For diversity of citizenship purposes, a trust is a citizen of whatever state the trustee is a citizen.” *Orlando Residence, Ltd. v. GP Credit Co., LLC*, 2007 WL 1598613, at *1 (E.D. Wis. 2007). *Accord, Intec USA, LLC v. Engle*, 467 F.3d 1038, 1041 (7th Cir. 2006) (limited liability company “has the citizenship of each of its members”); *Hemenway v. Peabody Coal Company*, 159 F.3d 255, 257 (7th Cir. 1998) (“the citizenship of a trust is the citizenship of the trustee”). Accordingly, complete diversity of citizenship exists here because both of the Plaintiffs are citizens of Wisconsin, and none of the Defendants are citizens of Wisconsin.

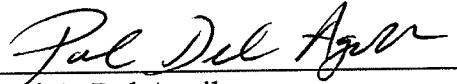
Amount in Controversy

12. Moreover, the amount in controversy exceeds \$75,000.00, exclusive of attorneys' fees, interest, and costs. Plaintiffs allege they "have been damaged in the sum of \$1,160,725.33 minus the 3% contractual fee", and also seek treble damages and punitive damages. (Complaint, ¶¶ 27-28). "Thus, where the plaintiff alleges that it seeks relief valued at more than \$75,000, the defendant can satisfy its burden by merely pointing to this allegation in the complaint". *Milwaukee Mailing, Shipment and Equipment, Inc. v. Neopost, Inc.*, 259 F. Supp. 2d 769, 771-72 (E.D. Wis. 2003). Accordingly, the amount in controversy requirement has been met.

WHEREFORE, Defendants respectfully request that this action be removed from the Circuit Court of Fond du Lac County, State of Wisconsin, to the United States District Court for the Eastern District of Wisconsin, because complete diversity of citizenship of the parties exists and the amount in controversy requirement has been met.

Respectfully submitted,

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By: 
Paul A. Del Aguila

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by U.S. Mail this 26th day of June, 2009, on: Dean P. Laing, O'Neil, Cannon, Hollman, DeJong, S.C., 111 East Wisconsin Avenue, Suite 1400, Milwaukee, Wisconsin 53202-4870



Paul A. Del Aguila

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